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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,885

04/05/2004

Maurizio Pilu

200207946-2

2672

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7590

07/24/2009

HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

VANCHY JR, MICHAEL J

ART UNIT

PAPER NUMBER

2624

NOTIFICATION DATE

DELIVERY MODE

07/24/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM

ipa.mail@hp.com

jessica.l.fusek@hp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/816,885	<b>Applicant(s)</b> PILU, MAURIZIO	
	<b>Examiner</b> MICHAEL VANCHY JR	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-18,26-31 and 40-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18,26-31 and 40-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 13-18, 26-31, and 40-48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 13-18, 26-30 and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger, 6,067,399.**

**Regarding claim 13**, Berger teaches a portable inhibitor device for use by a user, comprising a transmitter of an inhibitor message for restricting processing, by an image capture device, of a portion of an image corresponding to the user of said user portable inhibitor device, wherein the inhibitor message is recognizable by the image

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capture device and is to cause an image processor in the image capture device to perform an action to restrict processing of the portion of the image corresponding to the user (Fig. 1, and Abstract).

The Examiner takes into account that taking the broadest interpretation of claim language that the transmitter of the inhibitor device can be located within the image capture device, and send a message to the device to restrict a portion of the image corresponding to the person holding the camera and taking a picture/video of themselves.

**Regarding claims 14-16 and 18**, Berger teaches wherein the inhibitor message can be sent directionally (See Figure 1, transmission from the receiving apparatus and the recording apparatus), through an infrared device, or radio frequency device, both which can send a message omni-directionally (the Examiner takes into account that sending information over infrared and radio frequency is extremely well known in the art especially when transmitting this information to a remote location for recording (col. 4, lines 37-44)).

**Regarding claim 17**, Berger teaches wherein said transmitter is arranged to transmit the inhibitor message comprising a visual signal (Fig. 3, Abstract).

**Regarding claim 26**, see the rejection made to claim 13 for it encompasses the limitations of this claim except in claim 26 the information is encoded (col. 1, line 66 to col. 2, line 15. The Examiner takes into account that manipulating the image data is a way of encoding the image data.).

**Regarding claim 27 and 28**, Berger teaches wherein the image capture device is configured to: send the encoded image portion to a trusted third party computer to allow the trusted third party computer to decode the encoded image portion to recover an image of the object (Abstract and col. 4, lines 37-44, The Examiner takes into account that it is obvious to one of ordinary skill in the art that a computer can decode or

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unscramble the obscurity on the image and if desired send the information back to the image capture device since there is already an established connection with a third party.).

**Regarding claim 29**, see the rejection made to claim 13 for it encompasses the limitations of this claim except in claim 29 the information sends at least one image of the host wearer (Abstract).

**Regarding claim 30**, see the rejection made to claim 13 for it encompasses the limitations of this claim except in claim 29 the information sends at least one image of the host wearer to a third party (col. 4, lines 37-44).

**Regarding claim 40**, Berger teaches wherein the inhibitor message is to cause the image processor in the image capture device to perform the action that modifies the portion of the image corresponding to the user (Fig. 2, Abstract).

**Regarding claim 41**, Berger teaches wherein modifying of the portion of the image includes one or more of: decreasing a resolution of the portion of the image; overlaying a graphic image on the portion of the image; defocusing the portion of the image; and darkening the portion of the image (Fig. 2).

**Regarding claim 42**, Berger teaches wherein the transmitter is configured to further send an image of the user to the image capture device (Fig. 1, Abstract).

**Regarding claim 43**, Berger teaches wherein the image capture device is configured to modify the portion of the image to obscure the portion of the image in response to the inhibit signal (Fig. 3, Abstract).

**Regarding claim 44**, Berger teaches wherein the portion of the image is modified by one or more of: decreasing a resolution of the portion of the image;

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overlaying a graphic image on the portion of the image; defocusing the portion of the image; and darkening the portion of the image (Fig. 2).

**4. Claims 31 and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger, 6,067,399, and further in view of Nishizaka, JP2001313006.**

**Regarding claim 31**, Berger teaches an apparatus for insuring the privacy of the identity of the person being recorded (col. 1, lines 4-8). However, Berger does not teach using an external inhibitor device. Nishizaka teaches an image capture device comprising: an optics system for forming an image; and an image inhibitor operable for receiving from an inhibitor device associated with a user that is external of said image capture device, an inhibit signal for inhibiting a portion of said image, and inhibiting viewing of the portion of the image accordingly ([0004], The Examiner takes into account that the portable inhibitor device in this case is the infrared light, which can inhibit a portion of an image ("photography from the direction-of-radiation (for example, hear and thorax)"). The infrared can also block out the entire image, which is still a "portion" of the image as well (a whole is part of a whole).). However it would be clear to one of ordinary skill in the art to use an external inhibitor device for using privacy of the person being recorded.

**Regarding claim 45**, Berger teaches wherein the image processor is to further receive an image of the user from the inhibitor device, and wherein the image processor is to match the received image of the user with the portion of said image formed by the optics system (Abstract, matching skin tone).

**Regarding claim 46**, Berger teaches wherein tile action performed by the image processor includes modifying the portion of the image corresponding to the user (Fig. 3).

**Regarding claim 47**, Berger teaches wherein modifying the portion of the image includes one or more of: decreasing a resolution of the portion of the image; overlaying a graphic image on the portion of the image; defocusing the portion of the image; and darkening the portion of the image (Fig. 2).

**Regarding claim 48**, Berger teaches wherein the image processor is to process image data captured by the optics system (Fig. 1, Abstract).

### ***Allowable Subject Matter***

The Examiner would like to point out that if the Applicant can point out that the inhibitor device is external of the image capture device (used by a separate person/object) while teaching that the inhibit message is received in the image capture device's processor, which then restricts the portion of the image based on the inhibitor device message within the claim language that the claim should be allowable. If the Applicant has any questions the Examiner will gladly assist through a telephone call or interview.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VANCHY JR whose telephone number is (571)270-1193. The examiner can normally be reached on Monday - Friday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Bhavesh M Mehta/

Supervisory Patent Examiner, Art Unit 2624

Michael J. Vanchy Jr.  
Examiner, AU 2624  
(571) 270-1193  
Michael.Vanchy@uspto.gov